



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

CALIFORNIA LAW REVIEW

VOLUME IV
1915-1916

SCHOOL OF JURISPRUDENCE
UNIVERSITY OF CALIFORNIA
BERKELEY, CALIFORNIA
1916

TABLE OF CONTENTS

ARTICLES

Appropriation of Water in California, The, A. E. Chandler	206
Boundaries, Built-up, Outweigh Paper Boundaries, Samuel C. Wiel	292
Boundary Lines by Practical Location, The Establishment of, Joseph P. Loeb.	179
California Development Company Litigation, Some Observations on the, Walter K. Tuller	216
Corporate Entity in California, Limitations of Doctrine of, Robert L. McWilliams	465
Extralateral Right, The: Shall it be Abolished? William E. Colby	361, 437
Modern Receiverships, Some Tendencies of, Thomas A. Thacher	32
National Banks as Executors, Administrators and Trustees, Nat Schmulowitz	389
Negative Covenants, Enforcement of (Some Old Problems in a Modern Guise), Barry Gilbert	115
Patent Litigation, The Possibilities of Discovery In: Some Recent Judicial Developments, Charles E. Townsend	1
Police Power, The Scope and Meaning of, Charles M. Bufford	269
Property, Inalienable Rights of, Charles M. Bufford	478
Public Land Law in the Western Schools, The Study of, Earl C. Arnold	316
"Spoilers, The," William W. Morrow	89

AUTHORS

Arnold, Earl C. —The Study of Public Land Law in the Western Law Schools	316
Bufford, Charles M. —Inalienable Rights of Property	478
The Scope and Meaning of Police Power	269
Chandler, A. E. —The Appropriation of Water in California	206
Colby, William E. —The Extralateral Right: Shall it be Abolished?	361, 437
Gilbert, Barry —Some Old Problems in a Modern Guise (Enforcement of Negative Covenants)	115
Loeb, Joseph P. —The Establishment of Boundary Lines by Practical Location	179
McWilliams, Robert L. —Limitations of the Doctrine of Corporate Entity in California	465
Morrow, William W. —"The Spoilers"	89
Schmulowitz, Nat. —National Banks as Executors, Administrators and Trustees	389
Thacher, Thomas A. —Some Tendencies of Modern Receiverships	32
Townsend, Charles E. —The Possibilities of Discovery in Patent Litigation: Some Recent Judicial Developments	1
Tuller, Walter K. —Some Observations on the California Development Company Litigation	216
Wiel, Samuel C. —Built-up Boundaries Outweigh Paper Boundaries	292

INDEX-DIGEST

Pages Referring to Articles Designated by Asterisk

- Abatement of Action**
See Action for Wrongful Death.
- Action for Wrongful Death**
Abatement of action upon death of wrongdoer and of beneficiary. 52
- Administrators and Executors**
See Conflict of Laws.
- Admiralty**
The applicability of a state employer's liability act to seamen. 234
- Admissions.**
See Evidence.
- Adoption.**
Status of adopted child: rights of inheritance. 495
- Adverse Possession.**
See Property.
- Agency.**
See Insurance.
- Alien Labor.**
See Constitutional Law.
- Alimony.**
See Conflict of Laws.
- Appearance.**
Waiver of irregularity of service. 324
- Appropriation of Water.**
See Water Law.
- Attorney and Client.**
Right of client to compromise claim without consent of attorney. 327
- Attorneys.**
See Eminent Domain.
Disbarment for conviction of crime. 236
- Bar Association.**
California, meeting of. (Editorial Note). 492
- Bills and Notes.**
See Conflict of Laws.
Notice to Indorsee from prior pleadings. 53
- Books of Account.**
See Evidence.
- Boundaries.**
Built-up boundaries outweigh paper boundaries.* 292
Establishment of boundary lines by practical location. * 179
- Charities.**
See Municipal Corporations.
- Check.**
See Negotiable Instruments.
- Citizenship.**
Expatriation: Suffrage. 238
- Codicil.**
See Wills.
- Common Counts.**
See Pleading.
- Community Property.**
See Inheritance Tax.
Rents, issues and profits of separate estate. 329
- Condition.**
See Contracts: Public Lands.
- Conflict of Laws.**
Effect of pendency of a foreign garnishment. 55
Extraterritorial enforcement of penalties. 239
International comity; jurisdiction of a neutral court over suits between enemy citizens. 57
Liability of bonds of a foreign corporation owned by a non-resident to inheritance tax. 241
Matrimonial domicile. 59
Surrender of assets to domiciliary administrator. 496
Some observations on the California Development Company litigation. *216
What law governs negotiability of note. 141
- Constitutional Law.**
See Police Power.
Imprisonment for debt. 331
Income tax: Sixteenth Amendment. 338
Right of a state to discriminate against alien labor on public works. 405
To what extent is decree for past due alimony within full faith and credit clause. 142
Workmen's Compensation Act. 60
- Constructive Severance.**
See Fixtures.

- Contingent Remainderman.**
See Eminent Domain.
- Contracts.**
See Pawnbrokers.
Condition that employer may fix compensation to be paid for services. 498
Excuse if performance by existence of conditions causing unforeseen expense. 407
Performance to satisfaction of other party. 500
- Conversion.**
See Damages.
- Corporations.**
Defective attempt to incorporate: liability of shareholders as partners to creditors of the corporation. 336
Doctrine of corporate entity in California.
Is a judgment against a dissolved corporation void? 409
Liability of officers for debts of corporation. 339
Stockholders' liability. 343
Stockholders' liability in foreign corporation. 502
Stockholders' liability: limitation of action. 345
Stocks and Bonds: issuance. 504
- Covenant.**
See Public Lands.
- Criminal Law.**
Larceny: theft of goods by one entrusted with their custody. 341
New trial: error in repetition of prejudicial questions. 410
Power to suspend sentence. 144
- Damages.**
See Eminent Domain.
Measure of damages in conversion of mining stock. 246
- Delivery.**
See Gifts inter Vivos.
- Disbarment.**
See Attorney.
- Discovery.**
See Patent Law.
- District Courts of Appeal.**
Proposed amendment authorizing governor to create temporary district courts of appeal. (Editorial Note.) 320
- Divorce.**
See Parent and Child.
- Domicile.**
See Conflict of Laws.
- Dower.**
See Inheritance Tax.
- Easements.**
Revocability of parol licenses after execution 344
- Election of Remedies.**
Effect of previous action on inconsistent remedial right 346
- Eminent Domain.**
Costs and Attorneys' Fees. 505
Damages: business. 248
Right of contingent remainderman to compensation. 411
- Employers' Liability.**
See Admiralty.
Liability of property owner and of independent contractor. 412
- Employment.**
See Contracts.
- Entity.**
See Corporations.
- Equity.**
See Specific Performance.
Enforcement of Negative Covenants. *115
Power to stay temporary injunction. 63
Some observations on the California Development Company Litigation. *216
- Evidence.**
Admissions: declarations of prior owner of personality. 250
Books of account in actions against administrators. 64
Hearsay: declaration concerning mental state: intention. 145
Impeachment of one's own witness: prior inconsistent statements. 414
Presumption of time of death from seven years' absence. 148
Relevancy: sales of other land. 151
Witnesses: competency of owner to testify to value. 152
- Expatriation.**
See Citizenship.
- Extralateral Rights.**
See Mining Law.
- Fixtures.**
Constructive severance. 153
- Foreign Corporations.**
See Corporations.

- Fraud.**
See Public Lands.
- Garnishment, Foreign.**
See Conflict of Laws.
- Gifts Inter Vivos and Mortis Causa.**
Delivery of a key of a safe deposit box as sufficient delivery of the contents. 66
- Hearsay.**
See Evidence.
- Impeachment of Witnesses.**
See Evidence.
- Implied Contracts.**
See Municipal Corporations.
- Imprisonment for Debt.**
See Constitutional Law.
- Inalienable Rights.**
See Property.
- Income Tax.**
See Conflict of Laws.
- Inheritance.**
See Adoption.
- Inheritance Tax.**
See Conflict of Laws.
Is the wife's dower or community property subject to the tax? 156
Taxing the survivor of joint tenants. 507
- Injunction.**
See Equity.
- Insurance.**
Misrepresentation: limitation on binding effect of information gained by agent 68
- Joint-Tenants.**
See Inheritance Tax.
- Judges.**
Selection and Tenure of. (Editorial Notes.) 321
- Judicial Review.**
See Public Utilities.
- Jurisdiction.**
See Conflict of Laws: Practice.
Moot questions. 348
- Land Law.**
Study of public land law in the Western Law Schools *316
- Land Patents.**
See Public Lands.
- Landlord and Tenant.**
May tenant of beach and water lots in San Francisco claim adverse interest against so-called remainderman. 350
Surrender by operation of law. 158, 509
Tenantability. 71
- Larceny.**
See Criminal Law.
Stealing of a lottery ticket. 251
- Limitation of Actions.**
See Corporations.
- Mining Law.**
The Extralateral Right: Shall it be abolished? *361
- Misrepresentation.**
See Insurance.
- Municipal Corporations.**
See Nuisance.
Charities: police power. 415
Liability of school districts for negligence. 254
Liability on implied contracts. 255
Scope of the referendum power. 160
- National Banks.**
As Administrators, Executors, and Trustees. *389
- Negligence.**
See Municipal Corporations. ..
- Negligence per se.**
Driving on wrong side of road. 162
- Negotiable Instruments.**
See Conflict of Laws.
Death of drawer of a check. 72
Notice to indorsee from prior dealings. 53
- New Trial.**
See Criminal Law.
- Nuisance.**
Legislative Authority. 74
Municipal corporations: power of municipality to prohibit or regulate emission of smoke. 416
- Obituaries.**
Sanborn, Frederick G. 50
Thayer, Ezra Ripley. 51
- Parent and Child.**
Duty of support after divorce. 418
- Parol License.**
See Easement.
- Patent Law.**
Possibilities of discovery in patent litigation: Some recent judicial developments. * 1
- Pawnbrokers.**
Violation of penal code: effect on validity of contract. 420
- Performance, Excuse of**
See Contracts.
- Pleading.**
Sufficiency of the Common Counts. 352

- Police Power.**
See Municipal Corporations.
Scope and Meaning of Police Power. *269
- Pound, Roscoe.**
Appointment as Dean of Harvard Law School. (Editorial Note.) 319
- Practice.**
Venue: where must actions affecting real property be commenced and where tried? 257
- Presumption of Death.**
See Evidence.
- Property.**
Adverse possession of railroad right of way. 75
Inalienable rights of *478
- Public Lands.**
Cancellation of land patents for fraud: statute of limitations. 164
Oregon Land Grant Case: condition of covenant. 77
- Public Utilities.**
Valuation of properties by railroad commission for purposes of condemnation: scope of judicial review. 422
- Railroad Commission.**
See Public Utilities.
- Receivers.**
Some tendencies in modern receiverships. * 32
- Referendum.**
See Municipal Corporations.
- Relevance.**
See Evidence.
- Remainders.**
See Eminent Domain.
- Republication.**
See Wills.
- Restraints on Alienation.**
See Trusts.
- Riparian Owner.**
See Water Law.
- Risk of Loss.**
See Vendor and Purchaser.
- Satisfaction.**
See Contracts.
- School of Jurisprudence.**
Editorial Notes (University of California.) 323, 493
- Schools and School Districts.**
See Municipal Corporations.
Power of school district to compromise claims. 166
- Separate Property.**
See Community Property.
- Service.**
See Appearance.
- Specific Performance.**
Part performance of parol contracts to convey land. 260
- Spendthrift Trusts.**
See Trusts.
- "Spoilers, The."** *89
- Statute of Limitations.**
See Public Lands.
- Stockholders' Liability.**
See Corporations.
- Stocks and Bonds.**
See Corporations.
- Suffrage.**
See Citizenship.
- Surrender by Operation of Law.**
See Landlord and Tenant.
- Suspension of Sentence.**
See Criminal Law.
- Tender.**
In writing under code provisions. 424
- Trusts.**
Necessity of segregation of trust fund. 167, 510
Power to revoke in absence of an express power of revocation. 354
Restraints on alienation: spendthrift trusts. 426
- Vendor and Purchaser.**
Destruction of building: risk of loss. 79
- Venue.**
See Practice.
- Water Law.**
Apportionment between riparian owner and appropriator. 427
Appropriation of water in California. *206
- Western Law Schools.**
Study of Public Land Law in the Western Law Schools. *316
- Wills.**
See Conflict of Laws.
Republication by codicil: effect thereof. 356
Requisites of a nuncupative will. 168
- Witnesses.**
See Evidence.
- Workmen's Compensation.**
See Conflict of Laws.

TABLE OF CASES

Allen v. Chatfield.	425	Imperial Water Company v.	
Bates, Ex parte.	144	Wores.	344
Benjamin v. B'Nai B'rith So-		Innes v. Goldwater.	420
ciety.	145	Ivy Press v. McKechnie.	336
Benjamin v. Independent		Johnson v. Hinkle.	246
Order B'Nai B'rith Society.	148	Lewis v. Lewis.	419
Bernard v. Renard.	509	Llewellyn Iron Works v.	
Bronson v. Syverson.	331	Kinney.	409
Brown v. State.	169	McCahill, Estate of.	241
Brushaber v. Union Pacific		McColgan v. McGee.	426
Railroad Company.	335	McDougald v. Boyd.	507
Bryan Elevator Co. v. Law.	500	McGibbon v. Schmidt.	346
Buchanan's Estate, In re.	330	McKay v. Garman.	339
Bullen, In re.	156	Mackenzie v. Hare.	238
Carstens v. Pillsbury.	412	Mally v. Weidensteiner.	427
Central Pacific Railway Com-		Marin Water and Power	
pany v. Droge.	75	Company v. Railroad Com-	
Chase v. Kalber.	161	mission of the State of Cali-	
Clark v. Goodwin.	52	fornia.	422
Colburn v. Perrett.	65	Mineral Park Land Company	
Continental Gin Company v.		v. Howard.	407
DeBord.	153	Missouri, Kansas & Texas	
Cotter v. Cotter.	143	Railway Company v. Hous-	
Cooper v. Spring Valley		ley.	55
Water Co.	251	Molera v. Cooper.	167, 510
Coos Bay Manufacturing		Newsome v. Allen.	67
Company v. California Sell-		Northwestern Laundry v. Des	
ing Company.	415	Moines.	416
Coulter Drv Goods Com-		Oakland v. Pacific Coast	
pany v. Wentworth.	244	Lumber etc. Co.	505
Cutting, Estate of.	356	Oakland v. Pacific Coast	
Darling, Estate of.	495	Lumber & Mill Co.	248
Dart, In re.	415	Oregon & California Railroad	
E. I. Du Pont de Nemours		Company v. United States.	77
Powder Company v. Dodson.	74	Parker v. Parker.	59
Elgin v. Gross-Kelly & Com-		People v. Caridis.	252
pany.	72	People v. Dye.	341
Emmons, In re.	236	People v. Terramorse.	410
First National Bank of Kan-		People v. Tugwell.	146
sas City, Missouri v. Pennig	54	Pike v. Zadig.	352
Foster v. Young.	498	Potrero Nuevo Land Co. v.	
Gill v. Southern Pacific Com-		All Persons.	350
pany.	328	Potts v. Paxton.	247
Gordon v. Cadwalder.	411	Progressive Wall Paper Co.	
Gray v. Union Trust Com-		In re.	504
pany of San Francisco.	354	Provident Gold Min. Co. v.	
Heim v. McCall.	404	Haynes.	502
Higbie and Higbie v. Shields.	79	Reams v. Cooley.	255
Hopping v. City Council of		Ross, In the Matter of the	
the City of Richmond.	160	Estate of.	151
Hotel Marion Company v.		Security Trust & Savings	
Waters.	71	Bank v. Gleichmann.	141
Howard v. Tacoma School		Smith v. Cloud.	166
District No. 10, Pierce		State v. Daggett.	234
Company.	254	State v. District Court.	326

Sturdevant v. Pillsbury.	413	American Steamship Com-	348
Stohlman v. Martin.	162	pany.	
Symnes v. Sierra Nevada		United States v. Southern Pa-	164
Mining Company.	239	cific Co.	
Terry v. River Garden Farms		Watts, Watts & Company v.	
Company.	258	Unione Austriaca di Navi-	57
Triest & Company v. Gold-		gazione.	
stone.	158	Westphall v. Metropolitan Life	68
Union Trust Co. v. Pacific		Insurance Companv.	
Tel. & Telegraph Co.	497	Western Indemnity Company	60
United Railroads of San Fran-		v. Pillsbury.	
cisco v. The Superior Court	63	Willard v. Valley Gas & Fuel	152
United States v. Hamburg-		Company.	260
		Woerner v. Woerner.	

BOOK REVIEWS

Bennett, W. P.—The History and Present Position of the Bill of Lading as a Document of Title to Goods.	87
Berry, C. P.—Digest of the Law of Restrictions on the Use of Real Property	82
Borchard, Edwin M.—Diplomatic Protection of Citizens Abroad	359
Borland, William Patterson—The Law of Wills and Administration of Estates	175
Carter, Orrin N.—Ethics of the Legal Profession	185
Chamberlayne, Chas. F. (Edited by H. C. Joyce).—A Treatise on the Modern Law of Evidence	512
Curtis, Arthur F.—The Law of Electricity	83
Dealey, James Q.—Growth of American State Constitutions from 1776 to the End of the Year 1914	83
Del Vecchio, Giorgio—The Formal Bases of Law	265
Dewhurst, William Whitwell—Annotated Rules of Practice in the United States Federal Courts	84
Gilmore, Eugene Allen, (Ed.)—Modern American Law: A Commentary on the Fundamental Principles of American Law and Procedure	513
Goddard, Henry H.—The Criminal Imbecile	263
Hemenway, Henry Bixby—Legal Principles of Public Health Administration	85
Huston, Charles Andrews—The Enforcement of Decrees in Equity.	87
Kocourek, Albert, and Wigmore, John H.—Sources of Ancient and Primitive Law. (Evolution of Law Series)	435
Maitland, Frederick W. and Montague, Francis C.—A Sketch of English Legal History	512
McBain, Howard Lee—The Law and Practice of Municipal Home Rule	432
Michie Company—A Treatise on the Law of Homicide	81
Montague, Francis C. and Maitland, Frederick W.—A Sketch of English Legal History	512
Reeder, Robert B.—Validity of Rate Regulation	262
Schouler, James—The Law of Wills, Executors and Administrators	173

Stone, Harlan F. —Law and Its Administration	176
Thornton, Edward M. —A Treatise on Attorneys at Law	84
Topham, Alfred F. —Principles of Company Law	86
Voorhees, Harvey C. —The Law of Arrest in Civil and Criminal Actions	171
Wigmore, John H. and Kocourek, Albert —Sources of Ancient and Primitive Law. (Evolution of Law Series)	435
Winslow, John B. —Forms of Pleading and Practice Under the Codes	431